



## PATENT APPLICATION

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in re application of

Karin GOLZ-BERNER and Leonhard ZASTROW

Appln. No.: 10/520,562

Confirmation No.: 5263

Filed: January 7, 2005

Group Art Unit: 1616

For: ANTI-AGEING SKIN COSMETIC

Attorney Docket No.: 3975.039

Customer Number: 000041288

**INFORMATION DISCLOSURE STATEMENT  
UNDER 37 C.F.R. §1.97 and §1.98**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure under 37 C.F.R. §1.56, Applicants hereby notify the U.S. Patent and Trademark Office of the following documents for the above-identified application. Copies of the documents set forth below and listed on the attached Form PTO/SB/08A, a copy of an Office Action which issued in the corresponding German patent application are provided herewith. The position of the German Examiner was that individual components of the present invention are individually known, thus the combination would have been obvious (relying on a long list of references).

Applicants submit that plants and certain plant extracts are known, but the form of the extract, and most importantly, the combination according to the present invention, and novel and patentable.

U.S. PATENT APPLICATION  
SERIAL NO.: 10/520,562  
INFORMATION DISCLOSURE STATEMENT

ATTY DOCK: 3975.039

More specifically, the present invention relates to a cosmetic based on various natural raw materials, which can be used to counter the ageing processes of the human skin, and in particular comprises an extract from a mixture of fig leaves and fruits; an extract from pomegranate fruits; a ground dry mixture of rosemary stems and leaves; liposomes containing an extract from peeled musk melons; liposomes containing a plankton extract containing the photolyase enzyme; liposomes containing a micrococcus lysate containing the UV-endonuclease enzyme; and other active substances, carrier substances, adjuvants or mixtures thereof.

On the basis of the selection of specific forms of ingredients and the specific combination of at least six select ingredients, the high effectiveness and the particular degree of the anti-aging, anti-wrinkle and moisturizing properties of the inventive formulation have been proven in clinical studies with 30 test subjects with ages from 30 to 45 to be greater than would have been expected.

1. German Patent Application No. 100 63 433 A1
2. European Patent Application No. 1 153 600 A2
3. European Patent Application No. 0 707 844 A2
4. German Patent Application No. 695 21 158 T2
5. World Patent Application No. 99/66881 A2
6. World Patent Application No. 00/64472 A1
7. World Patent Application No. 01/17495 A1

8. Japanese Abstract of Patent Application No. 2001226218
9. World Patent Application No. 00/35406
10. World Patent Application No. 98/26755
11. World Patent Application No. 00/41674
12. U.S. Patent Publication No. 2003/223982 A1 (1)
13. U.S. Patent No.5,616,323 A (4)
14. U.S. Patent No.6,426,080 B1 (5)
15. U.S. Patent No.6,652,868 B1 (9)
16. U.S. Patent No.6,221,372 B1 (10)
17. U.S. Patent Publication No.2002/048594 A1 (11)

Document 1

Document 12 is an English language document in the patent family of Document 1.

Certainly Document 1 discloses, among a list of active ingredients, Rosemary extract. In Document 1 the nature of the extract is not described.

The present invention does not use, as in the cited art, a Rosemary extract, that is, not an extract containing a small specific part of the plant composition obtained using a specific extraction means, but rather a mixture of pulverised dry mixture of buds and leaves. Certainly, the chemistry of the dry powder of whole buds and leaves is different from that of an extract. Applicants submit that the higher anti-free-radical effect of the present composition is attributable to this difference in composition.

U.S. PATENT APPLICATION  
SERIAL NO.: 10/520,562  
INFORMATION DISCLOSURE STATEMENT

ATTY DOCK: 3975.039

Document 2

Applicants are not aware of any English language document equivalent to Document 2, other than an English language abstract:

A cosmetic sunscreen skin agent incorporates a quantity of phospholipid-liposomes with a DNA repair enzyme within a substrate based on either alcoholic oil-in-water, a water in-oil emulsion, or an alcoholic hydrogel.

Documents 3

Document 3 is in the English language.

This reference teaches the enzymes photolyase and endonuclease in cosmetic preparations.

Documents 4

Document 13 is an English language document in the patent family of Document 4.

Document 4 teaches an aqueous extract of melon (*Cucumis melo*), with uses including cosmetic preparations.

Documents 5

Document 14 is an English language document in the patent family of Document 5.

Documents 6

Document 6 is in the English language.

Document 6 discloses, among a list of active ingredients, Rosemary extract. In Document 6 the extract is referred to as an "aromatic oil".

The present invention does not use, as in the cited art, a Rosemary extract, that is, not an extract containing a small specific part of the plant composition obtained using a specific extraction means, but rather a mixture of pulverised dry mixture of buds and leaves. Certainly, the chemistry of the dry powder of whole buds and leaves is different from that of an extract. Applicants submit that the higher anti-free-radical effect of the present composition is attributable to this difference in composition.

Documents 7

Document 7 is in the English language.

Document 7 discloses, among a list of active ingredients (Vitamin A, Vitamin E), Rosemary extract. In Document 6 the extract is referred to as "Pronalen Rosemary", apparently a commercially available extract.

The present invention does not use, as in the cited art, a Rosemary extract, that is, not an extract containing a small specific part of the plant composition obtained using a specific extraction means, but rather a mixture of pulverised dry mixture of buds and leaves. Certainly, the chemistry of the dry powder

U.S. PATENT APPLICATION  
SERIAL NO.: 10/520,562  
INFORMATION DISCLOSURE STATEMENT

ATTY DOCK: 3975.039

of whole buds and leaves is different from that of an extract. Applicants submit that the higher anti-free-radical effect of the present composition is attributable to this difference in composition.

Documents 8

Document 8 is in the English language.

This reference teaches an aqueous (steam) extract of the plant *Ficus carica*, for use against dry skin.

In contrast, the composition of the present invention contains an extract from leaves and fruits, extracted with water and propylene glycol. Thus, the composition is different, and in accordance with the present invention, the use is also different, namely, cell regeneration.

On the basis of the selection of specific forms of ingredients and the specific combination of at least six select ingredients, the high effectiveness and the particular degree of the anti-aging, anti-wrinkle and moisturizing properties of the inventive formulation have been proven in clinical studies with 30 test subjects with ages from 30 to 45 to be greater than would have been expected.

Documents 9

Document 15 is an English language document in the patent family of Document 9.

U.S. PATENT APPLICATION  
SERIAL NO.: 10/520,562  
INFORMATION DISCLOSURE STATEMENT

ATTY DOCK: 3975.039

Document 9 teaches a skin peel composition including various plant extracts, including dried leaf of *Ficus carica*.

Documents 10

Document 16 is an English language document in the patent family of Document 10.

As disclosed in the present specification, page 1, Document 10 describes a preparation which contains extracts from the *Laminaria saccharina* alga, root extracts from *Lilium candidum* and extracts from *Glycyrrhyza glabra* and achieves a particular skin-cleansing effect.

Documents 11

Document 17 is an English language document in the patent family of Document 11.

As disclosed in the present specification, page 1, Document 11 describes rosemary extract to counter skin ageing.

The present Information Disclosure Statement is being filed after three months from the application's filing date but before the mailing date of the first Office Action on the merits, therefore no Certification Under 37 C.F.R. §1.97(e) or fee under 37 C.F.R. §1.17(p) is required.

The submission of the listed documents is not intended as an admission that any such document constitutes prior art against

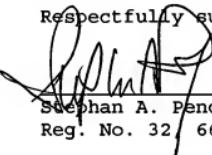
U.S. PATENT APPLICATION  
SERIAL NO.: 10/520,562  
INFORMATION DISCLOSURE STATEMENT

ATTY DOCK: 3975.039

the claims of the present application. Applicant does not waive any right to take any action that would be appropriate to antedated or otherwise remove any listed document as a competent reference against the claims of the present application.

Applicant respectfully requests that the listed documents be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO-1449 be returned in accordance with MPEP §609.

Respectfully submitted,

  
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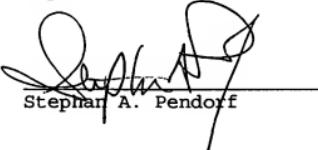
U.S. PATENT APPLICATION  
SERIAL NO.: 10/520,562  
INFORMATION DISCLOSURE STATEMENT

ATTY DOCK: 3975.039

**CERTIFICATE OF MAILING AND AUTHORIZATION TO CHARGE**

I hereby certify that the foregoing INFORMATION DISCLOSURE STATEMENT Form PTO/SB/08A, including seventeen (17) documents, for U.S. Application No. 10/520,562 filed January 7, 2005, were deposited in first class U.S. mail, postage prepaid, P.O. Box 1450, Alexandria, VA 22313-1450, on December 12, 2005.

The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 16-0877.



Stephan A. Pendorf

A handwritten signature in black ink, appearing to read "Stephan A. Pendorf". It is written in a cursive style with a long horizontal line underneath it.



Under the Patent Law Reduction Act of 1995, no person is required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449(PTO) 10-03

# INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 1

**Complete If Known**

|                      |                   |
|----------------------|-------------------|
| Application Number   | 10/520,562        |
| Filing Date          | January 7, 2005   |
| First Named Inventor | Karin GOLZ-BERNER |
| Art Unit             | 1616              |
| Examiner Name        |                   |

Attorney Docket No. 3975.039

**U.S. PATENT DOCUMENTS**

| Examiner Initials* | Cite No. <sup>1</sup> | Document Number<br>Number-King Code <sup>2</sup> [If Known] | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines, Where<br>Relevant Passages or Relevant<br>Figures Appear |
|--------------------|-----------------------|---|--------------------------------|--|---|
| /H.C./             |                       | US-2003/223982 A1   | 12-04-2003                     | SCHLÖTMANN KORDULA                                 | See transm. letter  |
|                    |                       | US-5,616,323 A  | 04-01-1997                     | GINOUX JEAN-PAUL                                   | See transm. letter  |
|                    |                       | US-6,426,080 B1   | 07-30-2002                     | GOLZ-BERNER KARIN                                  | See transm. letter  |
|                    |                       | US-6,652,868 B1   | 11-25-2003                     | SIMON VERONIQUE                                    | See transm. letter  |
|                    |                       | US-6,221,372 B1   | 04-24-2001                     | GOLZ-BERNER KARIN                                  | See transm. letter  |
|                    |                       | US-2002/048594 A1   | 04-25-2002                     | BRETON LIONEL                                      | See transm. letter  |

**NON-PATENT LITERATURE DOCUMENTS**

| Examiner Initials* | Cite No. <sup>1</sup> | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published | T <sup>2</sup> |
|--------------------|-----------------------|---|----------------|
|                    |                       |   |                |
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**FOREIGN PATENT DOCUMENTS**

| Examiner Initials* | Cite No. <sup>1</sup> | Foreign Patent Document<br>Country Code <sup>3</sup> Number <sup>4</sup> [If Known] | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines,<br>Where Relevant Passages<br>or Relevant Figures<br>Appear | T |
|--------------------|-----------------------|---|--------------------------------|--|--|---|
| /H.C./             |                       | DE 100 63 433 A1  | 06-27-2002                     | SCHLÖTMANN KORDULA                                 | See transm. letter   |   |
|                    |                       | EP 1 153 600 A2   | 11-14-2001                     | HANSEN PETER                                       | See transm. letter   |   |
|                    |                       | EP 0 707 844 A2   | 04-24-1996                     | BURMEISTER FREDERICK H                             | See transm. letter   |   |
|                    |                       | DE 695 21 158 T2  | 03-14-2002                     | GINOUX JEAN-PAUL                                   | See transm. letter   |   |
|                    |                       | WO 99/66881 A2  | 12-29-1999                     | GOLZ-BERNER KARIN                                  | See transm. letter   |   |
|                    |                       | WO 00/64472 A1  | 11-02-2000                     | MURAD HOWARD                                       | See transm. letter   |   |
|                    |                       | WO 01/17495 A1  | 03-15-2001                     | PYKETT MELANIE ANN                                 | See transm. letter   |   |
|                    |                       | JP 2001226218<br>(abstract)   | 08-21-2001                     | OHARA MITSUHARU                                    | See transm. letter   |   |
|                    |                       | WO 00/35406   | 06-22-2000                     | SIMON VERONIQUE                                    | See transm. letter   |   |
|                    |                       | WO 98/26755   | 06-25-1998                     | GOLZ-BERNER KARIN                                  | See transm. letter   |   |
|                    |                       | WO 00/41674   | 07-20-2000                     | BRETON LIONEL                                      | See transm. letter   |   |

|                    |                 |                 |            |
|--------------------|-----------------|-----------------|------------|
| Examiner Signature | /Mei Ping Chui/ | Date Considered | 03/28/2009 |
|--------------------|-----------------|-----------------|------------|

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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